

FlightHub Agrees to First Ever Temporary Consent Agreement

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FlightHub Group Inc., a Montreal-based online travel agency, agreed to make changes to its Flighthub.com and Justfly.com websites in the first ever [temporary consent agreement](#) filed under the Competition Act. The temporary consent agreement is designed to take the place of a temporary order, or interim injunction.

The Competition Bureau is investigating complaints that FlightHub misleads consumers about its seat selection and flight cancellation and rebooking services, as well as the price of flights. According to the Bureau, FlightHub charges consumers a fee for seat selection, yet it does not secure consumers' seat preferences with airlines. Flighthub.com also charges hidden fees for seat selection, the Bureau claims.

FlightHub also misleads the public about its cancellation and rebooking rights by conveying the impression that it provides consumers with extended cancellation rights that give them the flexibility to cancel and rebook flights at their convenience, according to the Bureau.

Finally, the Bureau alleges that FlightHub sometimes increases the cost of flights after consumers have selected their flights.

The Bureau frequently resolves misleading advertising cases through consent agreements. Once filed with the Competition Tribunal, consent agreements have the same force as an order of the Tribunal. The Bureau also has the ability to bring applications to the Tribunal for both temporary and final orders dealing with deceptive marketing practices.

This is the first time, however, that the Bureau has reached a temporary consent agreement designed to operate like a temporary order (essentially an interim injunction) while the Bureau continues its investigation. In fact, the Bureau has never sought or obtained a temporary order in a deceptive marketing practices case. To obtain a temporary order, the Bureau must demonstrate that serious harm is likely to ensue unless the order is issued and that the balance of convenience favours issuing the order.

The temporary consent agreement will remain in force until the Bureau's inquiry is resolved by a final consent agreement or a decision of the Tribunal. Interestingly, the order does not automatically terminate in the event that the Bureau terminates its inquiry without either a final consent agreement or an application to the Tribunal. If this were to happen, FlightHub would be forced to bring an application to the Tribunal to rescind the agreement.

[The Bureau's press release](#) also reveals that the Bureau executed a search warrant against FlightHub earlier in 2019. The Bureau rarely uses search warrants in civil cases, although they are common in criminal investigations.

[FlightHub put a positive spin on the consent agreement in its press release](#). Christopher Cave, FlightHub's Chief Operations Officer, said "Our goal is to offer our customers complete transparency when it comes to the flights they are booking, the fees they are being charged and the airlines' policies." He added, "FlightHub commends the Competition Bureau for driving best practices in the online marketplace, and we take pride in leading the way across the online travel industry in Canada. Our willingness to enter into a temporary consent agreement with the Canadian Competition Bureau reinforces our commitment towards this goal."

FlightHub is also under scrutiny in the US. Last month, the state of California [filed a lawsuit](#) accusing FlightHub of "swindling customers for years." [In a press release](#), San Francisco City Attorney Dennis Herrera alleged that "this company is set up to soak customers with hidden fees, like a seat assignment fee that doesn't actually guarantee you an assigned seat."

The allegations made by the Bureau and the state of California have yet to be proven in the Tribunal or Court.

The FlightHub case is in line with the Bureau's current focus on the digital economy. The use of a temporary consent agreement clearly signals that the Bureau is willing to seek temporary orders in these cases. That, together with the search warrants executed at FlightHub's headquarters, signals a get-tough approach to deceptive marketing practices in the digital economy.